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PRESS RELEASE

CCI imposes penalties upon Airlines for concerted action in fixing fuel surcharge (FSC) on cargo transport

The Competition Commission of India (CCI) has imposed penalties upon 3 Airlines for concerted action in fixing and revising Fuel Surcharge (FSC) - a component of freight charges.

The final order was passed by CCI on 07.03.2018 on an information filed by Express Industry Council of India against Jet Airways (India) Ltd., InterGlobe Aviation Limited, Spice Jet Limited, Air India Limited and Go Airlines (India) Limited alleging cartelisation.

The CCI noted in its order that the aforesaid Airlines acted in a concerted manner in fixing and revising the FSC rates and thereby contravened the provisions of Section 3 of the Act which prohibits anti-competitive agreements including cartels.

Accordingly, penalties of Rs. 39.81 crore, Rs. 9.45 crore and Rs. 5.10 crore were imposed upon Jet Airways (India) Ltd., InterGlobe Aviation Limited and Spice Jet Limited respectively. Besides, a cease and desist order was also issued against the Airlines.

While imposing penalties, the Commission applied the principle of relevant turnover and based the penalties on the revenue generated by the Airlines from air cargo transport services only. Considering the financial position of Airlines at the relevant time and noting that FSC constitutes about 20-30% of cargo revenue, penalty was imposed by the Commission @ 3 % of their average relevant turnover of the last three financial years.

The CCI deprecated the Airlines for using FSC as a pricing tool which was essentially introduced to mitigate the fuel price volatility.

The final order has been passed by CCI pursuant to the directions issued by the erstwhile Competition Appellate Tribunal remanding the matter back while setting aside the original order of CCI.

The order of the Commission was passed in Case No. 30 of 2013 and a copy thereof has been uploaded on the website of CCI at www.cci.gov.in.
